

108TH CONGRESS
2D SESSION

H. R. 4132

To amend the Internal Revenue Code of 1986 to provide a uniform definition of child for purposes of the personal exemption, the dependent care credit, the child tax credit, the earned income credit, and the health insurance refundable credit, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 2, 2004

Mr. HOUGHTON introduced the following bill; which was referred to the
Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to provide a uniform definition of child for purposes of the personal exemption, the dependent care credit, the child tax credit, the earned income credit, and the health insurance refundable credit, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Child Definition Sim-
5 plification Act of 2004”.

6 **SEC. 2. UNIFORM DEFINITION OF CHILD.**

7 (a) PERSONAL EXEMPTION.—

1 (1) IN GENERAL.—Section 151 of the Internal
2 Revenue Code of 1986 is amended by redesignating
3 subsections (c) and (d) as subsections (d) and (e),
4 respectively, and by inserting after subsection (b)
5 the following new subsection:

6 “(c) ADDITIONAL EXEMPTION FOR QUALIFYING
7 CHILDREN.—

8 “(1) IN GENERAL.—An exemption of the ex-
9 emption amount for each qualifying child.

10 “(2) QUALIFYING CHILD.—For purposes of this
11 section, the term ‘qualifying child’ means, with re-
12 spect to any taxpayer for any taxable year, an indi-
13 vidual—

14 “(A) who bears a relationship to the tax-
15 payer described in paragraph (3),

16 “(B) who has the same principal place of
17 abode as the taxpayer for more than ½ of such
18 taxable year, and

19 “(C) who meets the age requirements of
20 paragraph (4).

21 An individual shall not be treated as failing to meet
22 the requirements of subparagraph (B) by reason of
23 time of birth or death or by reason of temporary ab-
24 sences or other circumstances specified in the regu-
25 lations prescribed by the Secretary.

1 “(3) RELATIONSHIP TEST.—

2 “(A) IN GENERAL.—For purposes of para-
3 graph (2)(A), an individual bears a relationship
4 to the taxpayer described in this paragraph if
5 such individual is—

6 “(i) a son, daughter, stepson, or step-
7 daughter of the taxpayer or a descendant
8 of any such relative,

9 “(ii) a brother, sister, stepbrother, or
10 stepsister of the taxpayer or a descendant
11 of any such relative, whom the taxpayer
12 cares for as the taxpayer’s own child, or

13 “(iii) an eligible foster child of the
14 taxpayer.

15 “(B) ADOPTED CHILD.—For purposes of
16 subparagraph (A), a child who is legally adopt-
17 ed, or who is placed with the taxpayer by an
18 authorized placement agency for adoption by
19 the taxpayer, shall be treated as a child by
20 blood.

21 “(C) ELIGIBLE FOSTER CHILD.—For pur-
22 poses of subparagraph (A), the term ‘eligible
23 foster child’ means an individual—

24 “(i) who is placed with the taxpayer
25 by an authorized placement agency or by

1 judgment, decree, or other order of any
2 court of competent jurisdiction, and

3 “(ii) whom the taxpayer cares for as
4 the taxpayer’s own child.

5 “(4) AGE REQUIREMENTS.—For purposes of
6 paragraph (2)(C), an individual meets the require-
7 ments of this paragraph if such individual—

8 “(A) has not attained the age of 19 as of
9 the close of the calendar year in which the tax-
10 able year of the taxpayer begins,

11 “(B) is a student who has not attained the
12 age of 24 as of the close of such calendar year,
13 or

14 “(C) is permanently and totally disabled
15 (as defined in section 22(e)(3)) at any time
16 during the taxable year.

17 “(5) SPECIAL RULES.—

18 “(A) MARRIED DEPENDENTS.—An indi-
19 vidual shall not be a qualifying child of a tax-
20 payer if such individual makes a joint return
21 with the individual’s spouse under section 6013
22 for the taxable year beginning in the calendar
23 year in which the taxable year of the taxpayer
24 begins.

1 “(B) INDIVIDUALS WHO SUPPORT THEM-
2 SELVES.—An individual shall not be a quali-
3 fying child of a taxpayer if such individual pro-
4 vides over half of such individual’s own support
5 for the calendar year in which the taxable year
6 of the taxpayer begins.

7 “(C) ONLY 1 EXEMPTION AMOUNT.—An
8 individual who is a qualifying child of any tax-
9 payer shall not be treated as the dependent of
10 any taxpayer for purposes of this part.

11 “(6) SPECIAL RULE RELATING TO 2 OR MORE
12 CLAIMING QUALIFYING CHILD.—

13 “(A) IN GENERAL.—Except as provided in
14 paragraph (7), if an individual would (but for
15 this paragraph) be a qualifying child of 2 or
16 more taxpayers for taxable years beginning in
17 the same calendar year, such individual shall be
18 treated as the qualifying child of the taxpayer
19 who is—

20 “(i) a parent of the individual, or

21 “(ii) if none of such taxpayers is a
22 parent of the individual, the taxpayer with
23 the highest adjusted gross income for such
24 taxable year.

1 “(B) PARENTS NOT FILING JOINT RE-
2 TURNS.—If an individual would (but for this
3 paragraph) be a qualifying child of both parents
4 of such individual and such parents do not file
5 a joint return together, such child shall be
6 treated as the qualifying child of—

7 “(i) the parent with whom the child
8 resided for the longest period during the
9 taxable year, or

10 “(ii) if the child resides with both par-
11 ents for the same length of time during
12 such taxable year, the parent with the
13 highest adjusted gross income.

14 “(C) FOSTER CHILDREN.—For purposes of
15 this paragraph, the taxpayer shall be treated as
16 a parent of any eligible foster child who has the
17 same principal place of abode as the taxpayer
18 for more than one-half of such taxable year.

19 “(7) SPECIAL RULE FOR CERTAIN PRE-2006 IN-
20 STRUMENTS.—

21 “(A) IN GENERAL.—Notwithstanding para-
22 graph (6), a child who has parents who—

23 “(i) are divorced or legally separated
24 under a decree of divorce or separate
25 maintenance,

1 “(ii) are separated under a written
2 separation agreement, or

3 “(iii) live apart at all times during the
4 last 6 months of the calendar year,

5 shall be treated as being the qualifying child of
6 the noncustodial parent for a calendar year if
7 the requirements of subparagraph (B) are met.

8 “(B) REQUIREMENTS.—For purposes of
9 subparagraph (A), the requirements of this sub-
10 paragraph are met if—

11 “(i) such child would, but for this
12 paragraph, be the qualifying child of the
13 custodial parent, and

14 “(ii) a qualified pre-2006 instrument
15 between the parents is applicable to such
16 child for the taxable year beginning in such
17 calendar year.

18 In the case of an agreement executed before
19 January 1, 1985, the requirements of this sub-
20 paragraph are met only if, in addition to meet-
21 ing the requirements of clauses (i) and (ii), the
22 noncustodial parent provides at least \$600 for
23 the support of such child during such calendar
24 year.

1 “(C) QUALIFIED PRE-2006 INSTRUMENT.—

2 For purposes of this paragraph, the term
3 ‘qualified pre-2006 instrument’ means any writ-
4 ten declaration referred to in subsection (e)(2)
5 (as in effect on the day before the date of the
6 enactment of the Child Definition Simplification
7 Act of 2004)—

8 “(i) which is executed before January
9 1, 2006, and

10 “(ii) which is not modified on or after
11 such date in a modification which expressly
12 provides that this subsection shall not
13 apply to such declaration.

14 “(D) CUSTODIAL PARENT AND NONCUSTO-
15 DIAL PARENT.—For purposes of this sub-
16 section—

17 “(i) CUSTODIAL PARENT.—The term
18 ‘custodial parent’ means the parent with
19 whom a child shared the same principal
20 place of abode for the greater portion of
21 the calendar year.

22 “(ii) NONCUSTODIAL PARENT.—The
23 term ‘noncustodial parent’ means the par-
24 ent who is not the custodial parent.

1 “(E) SPECIAL RULES FOR SUPPORT.—For
2 purposes of this subsection—

3 “(i) amounts expended for the support
4 of a child or children shall be treated as
5 received from the noncustodial parent to
6 the extent that such parent provided
7 amounts for such support, and

8 “(ii) in the case of the remarriage of
9 a parent, support of a child received from
10 the parent’s spouse shall be treated as re-
11 ceived from the parent.”.

12 (2) CONFORMING AMENDMENTS.—

13 (A) Section 152 of such Code is amended
14 by striking subsection (e) (relating to support
15 test in case of child of divorced parents, etc.).

16 (B) Paragraph (6) of section 1(f) of such
17 Code is amended—

18 (i) in subparagraph (A) by striking
19 “151(d)(4)” and inserting “151(e)(4)”,
20 and

21 (ii) in subparagraph (B) by striking
22 “151(d)(3)(A)” and inserting
23 “151(e)(3)(A)”.

24 (C) Paragraph (5) of section 21(e) of such
25 Code is amended—

1 (i) by striking “paragraph (2) or (4)
2 of section 152(e)” and inserting “section
3 151(c)(7)”, and

4 (ii) by striking “section 152(e)(1)”
5 and inserting “section 151(c)(7)”.

6 (D) Sections 21(e)(6) and 129(c) of such
7 Code are each amended—

8 (i) by striking “151(c)” and inserting
9 “151(d)”, and

10 (ii) by striking “151(c)(3)” and in-
11 serting “151(d)(3)”.

12 (E) Sections 25B(c)(2)(B), 32(c)(3)(C)(ii),
13 152(d)(2), and 2032A(c)(7)(D) of such Code
14 are each amended by striking “151(c)(4)” and
15 inserting “151(d)(4)”.

16 (F) Sections 72(t)(7)(A)(iii) and
17 132(h)(2)(B) of such Code are each amended
18 by striking “151(c)(3)” and inserting
19 “151(d)(3)”.

20 (G) Clause (i) of section 642(b)(2)(C) of
21 such Code is amended—

22 (i) by striking “151(d)” and inserting
23 “151(e)”, and

24 (ii) by striking “ 151(d)(3)(C)(iii)”
25 and inserting “ 151(e)(3)(C)(iii)”.

1 (H) Paragraph (1) of section 3402(f) of
2 such Code is amended—

3 (i) in subparagraph (A) by striking
4 “151(d)(2)” and inserting “151(e)(2)”,
5 and

6 (ii) in subparagraph (C) by striking
7 “151(c)” and inserting “151(d)”.

8 (I) Subparagraph (B) of section
9 3402(r)(2) of such Code is amended by striking
10 “151(d)” and inserting “151(e)”.

11 (J) Paragraph (1) of section 6012(a) of
12 such Code is amended—

13 (i) in subparagraph (A) by striking
14 “151(c)” and inserting “151(d)”, and

15 (ii) in subparagraph (D)(ii)—

16 (I) by striking “151(d)” and in-
17 serting “151(e)”, and

18 (II) by striking “151(d)(2)” and
19 inserting “151(e)(2)”.

20 (K) The last sentence of section
21 6013(b)(3)(A) of such Code is amended by
22 striking “151(d)” and inserting “151(e)”.

23 (L) Section 7703(b)(1) of such Code is
24 amended by striking “151(c)(3)” and inserting
25 “151(c)(2)”.

1 (b) APPLICATION OF UNIFORM DEFINITION TO DE-
 2 PENDENT CARE CREDIT.—

3 (1) IN GENERAL.—Section 21(b)(1)(A) of such
 4 Code is amended to read as follows:

5 “(A) a qualifying child of the taxpayer (as
 6 defined in section 151(c)) who has not attained
 7 age 13,”.

8 (2) REPEAL OF MAINTENANCE OF HOUSEHOLD
 9 TEST.—Section 21(a)(1) of such Code is amended
 10 by striking “who maintains a household which in-
 11 cludes as a member” and inserting “with respect to
 12 whom there are”.

13 (c) APPLICATION OF UNIFORM DEFINITION TO
 14 CHILD TAX CREDIT.—Section 24(c)(1) of such Code is
 15 amended to read as follows:

16 “(1) IN GENERAL.—The term ‘qualifying child’
 17 means a qualifying child of the taxpayer (as defined
 18 in section 151(c)) who has not attained age 17 as
 19 of the close of the calendar year in which the taxable
 20 year of the taxpayer begins.”.

21 (d) APPLICATION OF UNIFORM DEFINITION TO
 22 EARNED INCOME CREDIT.—

23 (1) IN GENERAL.—Paragraph (3) of section
 24 32(c) of such Code is amended to read as follows:

25 “(3) QUALIFYING CHILD.—

1 “(A) IN GENERAL.—The term ‘qualifying
2 child’ means a qualifying child of the taxpayer
3 (as defined in section 151(c)).

4 “(B) PLACE OF ABODE.—For purposes of
5 subparagraph (A), the requirements of section
6 151(c)(2)(B) shall be met only if the principal
7 place of abode is in the United States.

8 “(C) IDENTIFICATION REQUIREMENTS.—

9 “(i) IN GENERAL.—A qualifying child
10 shall not be taken into account under sub-
11 section (b) unless the taxpayer includes the
12 name, age, and TIN of the qualifying child
13 on the return of tax for the taxable year.

14 “(ii) OTHER METHODS.—The Sec-
15 retary may prescribe other methods for
16 providing the information described in
17 clause (i).”.

18 (2) CONFORMING AMENDMENTS.—

19 (A) Section 32(c)(1) of such Code is
20 amended by striking subparagraph (C) and by
21 redesignating subparagraphs (D), (E), (F), and
22 (G) as subparagraphs (C), (D), (E), and (F),
23 respectively.

1 (B) Section 32(e)(4) of such Code is
2 amended by striking “(3)(E)” and inserting
3 “(3)(B)”.

4 (C) Section 32(m) of such Code is amend-
5 ed by striking “subsections (c)(1)(F)” and in-
6 serting “subsections (c)(1)(E)”.

7 (e) APPLICATION OF UNIFORM DEFINITION TO
8 CREDIT FOR HEALTH INSURANCE COSTS OF ELIGIBLE
9 INDIVIDUALS.—Section 35(d)(1)(B) of such Code is
10 amended to read as follows:

11 “(B) a qualifying child of the taxpayer (as
12 defined in section 151(c)).”.

13 (f) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to taxable years beginning after
15 December 31, 2004.

16 (g) REGULATIONS.—Not later than 1 year after the
17 date of the enactment of this Act, the Secretary of the
18 Treasury shall issue regulations or other guidance defining
19 place of abode and principal place of abode for purposes
20 of sections 151(c), 21, 24, 32, and 35 of the Internal Rev-
21 enue Code of 1986, as amended by this section.

1 **SEC. 3. TREATMENT OF GOVERNMENT BENEFITS IN DETER-**
2 **MINING SUPPORT AND COST OF MAINTAIN-**
3 **ING HOUSEHOLD.**

4 (a) DEPENDENCY EXEMPTION.—Section 152 of the
5 Internal Revenue Code of 1986 is amended by adding at
6 the end the following new subsection:

7 “(f) SPECIAL RULE RELATING TO TREATMENT OF
8 GOVERNMENT BENEFITS IN DETERMINING SUPPORT.—
9 For purposes of this part, any means-tested benefits ob-
10 tained under programs described in section 6103(l)(7) or
11 substantially similar government programs shall not be
12 taken into account for purposes of determining—

13 “(1) whether over half of the support of an in-
14 dividual for a calendar year is received from a tax-
15 payer, and

16 “(2) whether over half of the cost of maintain-
17 ing a household is furnished by a taxpayer.”.

18 (b) DEPENDENT CARE CREDIT.—Section 21(e)(1) of
19 such Code is amended by adding at the end the following:
20 “Any means-tested benefits obtained under programs de-
21 scribed in section 6103(l)(7) or substantially similar gov-
22 ernment programs shall not be taken into account for pur-
23 poses of determining whether over half of the cost of main-
24 taining a household is furnished by the individual.”.

1 (c) MARITAL STATUS.—Section 7703 of such Code
2 (relating to determination of marital status) is amended
3 by adding at the end the following new subsection:

4 “(c) SPECIAL RULE RELATING TO TREATMENT OF
5 GOVERNMENT BENEFITS IN DETERMINING COST OF
6 MAINTAINING HOUSEHOLD.—For purposes of subsection
7 (b)(2), any means-tested benefits obtained under pro-
8 grams described in section 6103(l)(7) or substantially
9 similar government programs shall not be taken into ac-
10 count for purposes of determining whether over half of the
11 cost of maintaining a household is furnished by the indi-
12 vidual.”.

13 (d) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to taxable years beginning after
15 December 31, 2004.

○